



MCI Telecommunications  
Corporation  
1801 Pennsylvania Avenue, NW  
Washington, DC 20006  
202 872 1600

DOCKET FILE COPY ORIGINAL

RECEIVED

NOV 8 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
ORIGINAL

November 8, 1993

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, NW  
Washington, DC 20554

Re: Revision of the Commission's Part 64 Requirements for the Filing of Cost  
Allocation Manuals by Certain Local Exchange Carriers, Petition for Rulemaking  
of the United States Telephone Company, RM-8354.

Dear Mr. Caton:

Enclosed herewith for filing are the original and four (4) copies of MCI  
Telecommunications Corporation's Opposition to Petition in the above-captioned  
matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI  
Opposition to Petition furnished for such purpose and remit same to the bearer.

Sincerely yours,

Elizabeth Dickerson  
Manager, Federal Regulatory

Enclosure  
ED/ms

No. of Copies rec'd dt 4  
List ABCDE CCB

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20054

RECEIVED  
DOCKET FILE COPY ORIGINAL  
NOV 8 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Revision of the Commission's )  
Part 64 Requirements for )  
the Filing of Cost Manuals )  
by Certain Local Exchange Carriers )

RM-8354

OPPOSITION TO PETITION

MCI Telecommunications Corporation ("MCI") hereby submits its opposition to a petition for rulemaking filed by the United States Telephone Association ("USTA") on September 9, 1993, in the above-captioned matter. In the petition, USTA asks the Commission to amend Section 64.093(a) of its rules to increase the revenue threshold that determines whether a carrier must file a cost allocation manual ("CAM") from \$100 million annual operating revenues to \$1 billion. Because USTA's proposed rule is ambiguous and the recommended threshold, arbitrary, MCI urges the Commission to reject its petition. If the Commission nonetheless believes that it is appropriate to reconsider the applicability of its cost allocation rules, MCI recommends that it broaden the scope of the analysis and adopt a meaningful threshold, rather than one that is based purely on revenues.<sup>1</sup> Alternatively, MCI would recommend the Commission waive full compliance with the rules only for those smaller companies who

---

<sup>1</sup> In Public Notice DA 93-1191, released October 7, 1993, the Commission offers \$250 million, \$500 million, or \$750 million as alternatives to USTA's \$1 billion threshold.

can show that the risks of cross-subsidization are so low as to justify a relaxation in their compliance with the rules.

Because the Commission has established the \$100 million revenue mark as a cut-off for numerous regulatory requirements (and, in fact has recently proposed to strengthen the accounting rules that govern transactions between regulated and nonregulated operations of carriers this size<sup>2</sup>), any relief from this tradition will be precedential and, therefore, must be thoroughly analyzed. USTA's petition, however, does not offer adequate justification for any deviation from this traditional threshold. First of all, USTA fails to show that relevant circumstances have changed since adoption of the original CAM requirements in 1987.<sup>3</sup> Also, the rule USTA proposes potentially would exempt large corporations from the requirement. Further, other safeguards do not provide the protection the CAMs afford; nor is failure to generate comments on CAMs filed historically a valid indicator of their true utility.

Changes in circumstances would support retention of or expansion of the current rules, rather than the relaxation USTA proposes. For example, the revenues of the four carriers USTA claims would benefit from the rule change are greater than they

---

<sup>2</sup> In the Matter of Amendment of Parts 32 and 64 of the Commission's Rules to Account for Transactions between Carriers and Their Nonregulated Affiliates, Notice of Proposed Rulemaking, CC Docket No. 93-251, released October 20, 1993.

<sup>3</sup> Separation of the Costs of Regulated Telephone Services from the Costs of Nonregulated Activities, Report and Order, 2 FCC Rcd 1298 (1987), Recon. 2 FCC Rcd 6283 (1987), further recon. 3 FCC Rcd 6701 (1988), affirmed sub no., Southwestern Bell Corp. v. FCC, 896 F.2d. 1378 (D.C.Cir. 1990).

were six years ago.<sup>4</sup> Also, their percentage of non-regulated activity has increased.<sup>5</sup>

Finally, the administrative burden of complying with the rules likely has diminished over time. This is because the cost of maintaining a CAM is minimal compared to the cost of its initial development and approval. If revisions are minor, both the effort to implement them and the cost of the ensuing and more narrowly focused audit also should be small.<sup>6</sup> Curiously, USTA does not even attempt to quantify any of these costs, making it difficult to evaluate rationally whether the loss in oversight is worth the promised rate payer benefit.

Increasing the revenue threshold to \$1 billion potentially could exempt large local exchange carriers from a degree of oversight that is necessary to promote the just and reasonable rates for interstate services that are the primary intent of the

---

<sup>4</sup> <u>Carrier</u>	<u>1986 Operating Rev.</u>	<u>1992 Operating Rev.</u>	<u>Growth</u>
Cincinnati Bell	\$478,311	\$584,102	22.12%
Lincoln Tel. & Tel.	132,965	157,774	18.66%
Rochester Tel.	241,130	296,296	22.88%
Puerto Rico Tel.	\$390,270	\$736,620	88.75%

Source: 1990 and 1992 ARMIS 43-01 Reports.

<sup>5</sup> <u>Carrier</u>	<u>1990 Non-Reg. Rev.</u>	<u>1992 Non-Reg. Rev.</u>	<u>Growth</u>
Cincinnati Bell	\$93,797	\$73,118	N/A
Lincoln Tel. & Tel.	\$14,660	\$14,865	1.39%
Rochester Tel.	\$17,899	\$20,152	12.59%
Puerto Rico Tel.	\$41,877	\$44,875	7.16%

Source: 1990 and 1992 ARMIS 43-01 Reports.

<sup>6</sup> On the other hand, if the revisions to a company's structure or cost allocations are major, less weight should be given to a complaint regarding the administrative burden associated with these revisions because it is commensurately more important that these modifications be available for public review and comment.

Commission's cost allocation rules.<sup>7</sup> USTA contends that carriers with only \$100 million in revenues are too small to be burdened with the CAM requirement. (Petition, pp. 7, 8) It fails to explicate, however, how the burden is so great for those carriers with \$999 million in revenues to justify extending relaxed oversight to them as well. In fact, its selection of the \$1 billion mark is arbitrary, and USTA is vague on how it intends the threshold to apply.<sup>8</sup> If the limit of \$1 billion is applied at the operating company level and not holding company level, it is conceivable that companies large enough to be included in Fortune Magazine's largest 100 service companies listing, would be exempt from the CAM requirement.<sup>9</sup> Yet, USTA appears to assert that carriers within this range are small "mom and pop" telephone companies with meager resources, limited products, and no incentive to engage in cross-subsidization. To the contrary, raising the threshold to \$1 billion would exempt certain of the operating companies of GTE -- the nation's largest telephone company -- from the CAM

---

<sup>7</sup> Separation of the Costs of Regulated Telephone Services from the Costs of Nonregulated Activities, Report and Order, 2 FCC Rcd 1298, 1299 (1987).

<sup>8</sup> The USTA petition is ambiguous on whether it intends the \$1 billion revenue limit to apply on the operating company or holding company level. It uses the terms "carriers" (Petition, p. 1); "exchange carrier organizations" (*Id.*, p. 4); "companies" (*Id.*, p. 8); "real carriers" (*Id.*); and "local exchange carriers" (*Id.*, p. 9) interchangeably, without really defining whether it is measuring revenues on an operating company level (as Tier I qualification is measured) or on a holding company basis. While MCI supports monitoring on an operating company basis -- and it believes this is what USTA intends -- the inclusion of companies such as GTE under the \$1 billion umbrella raises questions as to what it is USTA actually seeks. Alternatively, if the threshold applies to the holding company level, USTA does not address whether its proposed rule change would apply to any carriers previously exempted from the CAM filing requirements.

<sup>9</sup> Companies on that listing ranged, in 1992, from only \$1.2 billion to \$65 billion.

requirement.<sup>10</sup> If any regulatory relief is in order, it must be fashioned in a manner that extends it only to those parties for whom it is truly appropriate.

USTA also argues that CAMs are unnecessary for these four carriers because (1) there are other information sources available from which the Commission and other interested parties could obtain the necessary data to determine whether the carriers were in compliance with the cost allocation rules; and (2) no one has commented on the quarterly CAM updates these carriers have filed. (Petition, p. 6) MCI has long been a proponent of structural safeguards, and it has frequently argued that accounting safeguards -- of which the CAM is a single component -- inadequately protect captive ratepayers from cross-subsidizing LEC nonregulated services with profits derived from monopoly services. USTA cannot justify chipping away the scant protection that interexchange carriers receive from accounting safeguards by eliminating them on a piecemeal basis and suggesting that there are other ways to track the information. Had these other sources alone offered ample protection, MCI contends that the Commission would not have included the CAM filing and audit requirement in its integrated package of safeguards that includes comparably efficient interconnection rules, the open network architecture framework, Automated Reporting

---

<sup>10</sup> Attachment A shows the 1992 revenues by operating company for carriers reporting such data under ARMIS 4301. If USTA's petition is adopted, it will establish the principle that a carrier's size is the relevant variable that determines whether a carrier should be subject to regulated/non-regulated cost allocation rules, and that any carrier with revenues less than \$1 billion should not be closely monitored for cross-subsidization. This being the case, the Bell Operating Companies are given new ammunition to argue for similar relief for over half of their total operating companies who also fall beneath this threshold.

and Management Information System, cost allocation hierarchy rules, and affiliate transaction rules. Since MCI believes that these safeguards together fail to provide adequate protection from cross-subsidization and discrimination, it certainly does not support removal of any of the individual elements.

Further, there is no substance to USTA's argument that the fact that there have been no comments on the carriers' CAMs demonstrates that it is unnecessary for these carriers to file CAMs. (Petition, p. 6) USTA could just as convincingly argue that the fact that no tickets were issued to drivers of automobiles traveling at fifty-five miles per hour through a marked speed trap shows that drivers are not inclined to break the speed limit, and the policing efforts should be discontinued. To the contrary, MCI contends that knowing that one's behavior is observed provides a substantial motivation for operating within established guidelines, and that the mere existence of the requirements may well affect accounting decisions of the LECs. Significantly, USTA asks for relief for Rochester Telephone Company, a carrier who is attempting to embark on a novel corporate realignment, the regulatory implications of which have yet to be fully realized. It is especially inappropriate to consider relaxing Rochester's regulatory oversight at this time. Just because there have been no comments to date on these four carriers' CAMs offers no proof that the CAMs have had no effect in the past or -- given the rapidly changing regulatory environment hastened by such initiatives as Rochester's Open Market Plan<sup>11</sup> -- will be unnecessary in the future.

---

<sup>11</sup> On February 3, 1993, Rochester filed its Open Market Plan with the New York Public Service Commission. On May 19, 1993, it filed the Petition for Waivers of Part 61 Tariff Rules and Part 69 Access Charge Rules to Implement Its Open Market Plan with the FCC.

In the Public Notice, the Commission suggests different levels of annual revenues as alternatives to USTA's requested \$1 billion. MCI believes that adoption of any revenue level is arbitrary, and that if a change is to be made to the CAM participation requirements, it should be based on factors that, unlike sheer size, actually may be related to a carrier's incentive and ability to engage in cross-subsidization. Since even the smallest local exchange carrier is, by definition, the dominant provider of bottleneck services in its geographic area, absolute size is not relevant in determining what type of regulation is needed. Instead, the Commission might consider adopting CAM participation rules based upon the characteristics of the non-regulated businesses in which the companies participate. Or, analyses such as the ratio of non-regulated to regulated revenues or the rates-of-return of non-regulated services compared to the level of access charges or local service costs may prove more relevant in determining whether a company should be subject to a different degree of oversight. In short, MCI believes that revenues, by themselves offer no such guidance, and the Commission should not arbitrarily replace one revenue level with another when more meaningful measures are available.<sup>12</sup>

---

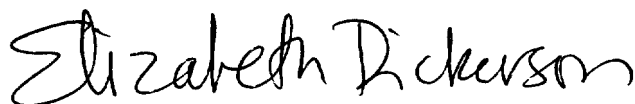
<sup>12</sup> MCI is not criticizing the Tier I / Tier II or Class A / Class B \$100 million revenue thresholds that are used generally to segregate types of carriers for the purposes of applying different levels regulation. As a universal benchmark, \$100 million has proven to be a viable standard. It is USTA's efforts to modify this traditional demarkation point that raises the issue of what type of situation-specific standards should be considered if this established measure were replaced.



As noted previously, USTA has failed to include any actual cost figures in its petition, and it is impossible, therefore, to gauge the severity of the financial burden USTA claims. If factors other than annual revenues were considered, however, it is conceivable that there may be those LECs for whom less than total compliance with the CAM filing and audit requirements may be warranted. If those carriers with more than \$100 million in annual revenues also fell below certain threshold levels that better reflected their involvement in non-regulated activities than do total revenues, more lenient CAM regulations might be appropriate for those selected entities. MCI would not object to certain individual carriers requesting waivers from certain portions of these requirements.

For the foregoing reasons, MCI urges the Commission to reject USTA's petition for rulemaking as well as the other revenue thresholds proposed in the Public Notice. As an alternative, MCI suggests that the Commission consider exemption from the more demanding CAM audit and filing requirements only for those carriers, who on a case-by-case basis can make a showing that the risks of cross-subsidization are so low as to justify a relaxation in their compliance with the rules.

Respectfully submitted,  
MCI TELECOMMUNICATIONS CORPORATION

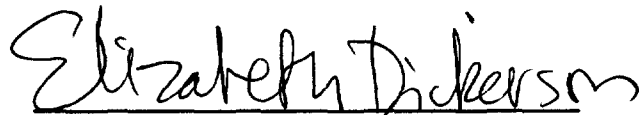
A handwritten signature in black ink, reading "Elizabeth Dickerson". The signature is written in a cursive, flowing style.

Elizabeth Dickerson  
Manager, Federal Regulatory  
1801 Pennsylvania Avenue, NW  
Washington, DC 20006  
(202) 887-3821

November 8, 1993

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on November 8, 1993.

A handwritten signature in black ink, reading "Elizabeth Dickerson". The signature is written in a cursive style with a horizontal line underneath the name.

Elizabeth Dickerson  
1801 Pennsylvania Avenue, NW  
Washington, DC 20006  
(202) 887-3821

## CERTIFICATE OF SERVICE

I, Susan Travis, do hereby certify that copies of the foregoing MCI Opposition to Petition were sent via first class mail, postage paid, to the following on this 8th day of November 1993:

Kathleen Levitz\*\*  
Acting Chief, Common Carrier Bureau  
Federal Communications Commission  
Room 500  
1919 M Street, N.W.  
Washington, DC 20554

International Transcription Service\*\*  
Federal Communications Commission  
Room 246  
1919 M Street, N.W.  
Washington, DC 20554

Gregory J. Vogt\*\*  
Chief, Tariff Division  
Federal Communications Commission  
Room 518  
1919 M Street, N.W.  
Washington, DC 20554

David L. Sieradzki\*\*  
Policy and Program Planning Division  
Federal Communications Commission  
Room 544  
1919 M Street, N.W.  
Washington, DC 20554

Dan Grosh\*\*  
Federal Communications Commission  
Room 518  
1919 M Street, N.W.  
Washington, DC 20554

Debbie Weber\*\*  
Accounting and Audits Division  
Federal Communications Commission  
Room 8112  
2000 L Street, N.W.  
Washington, DC 20665

Ann Stevens\*\*  
Federal Communications Commission  
Room 518  
1919 M Street, N.W.  
Washington, DC 20554

United States Telephone Association  
Martin T. McCue  
900 19th Street, N.W., Suite 800  
Washington, DC 20006-2105

Judy Nitsche\*\*  
Federal Communications Commission  
Room 518  
1919 M Street, N.W.  
Washington, DC 20554

**Hand Delivered\*\***

  
Susan Travis